

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Geographic Partitioning)
and Spectrum Disaggregation by)
900 MHz Specialized Mobile)
Radio Service Major Trading Area)
Licensees)
)
Amendment of Part 90 of the)
Commission's Rules to Facilitate)
Future Development of SMR Systems)
in the 800 MHz Frequency Band)

RM 8887

PR Docket No. 93-144

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Comments of Motorola, Inc.

Motorola, Inc. ("Motorola") hereby submits these comments in support of the above-captioned Petition for Rulemaking filed September 30, 1996, by the American Mobile Telecommunications Association, Inc. ("AMTA").¹ AMTA asks the Commission to expand its existing rules to allow all Major Trading Area ("MTA") licensees in the 900 MHz SMR service to partition their license area at any time to any entity that meets the minimum applicable eligibility requirements. In addition, AMTA requests that 900 MHz SMR MTA licensees be allowed to disaggregate their spectrum blocks.

¹ American Mobile Telecommunications Association, Inc., Petition for Rulemaking, RM 8887 (filed Sept. 30, 1996) [hereinafter *AMTA Petition*]. The Commission incorporated AMTA's Petition for Rulemaking into PR Docket No. 93-144 with the objective of developing a single set of rules to govern partitioning and disaggregation in the SMR service. See Public Notice, DA 96-1654 (October 4, 1996) (inviting public comment on AMTA's petition).

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As discussed in detail below, the rule changes requested by AMTA will serve the public interest by facilitating efficient use of 900 MHz SMR spectrum, increasing competition and diversity in the commercial mobile radio service ("CMRS") marketplace, and expediting the provision of new services responsive to customers' needs. Accordingly, Motorola supports the adoption of AMTA's proposals.

I. Background

Under the Commission's existing rules, rural telephone companies are the only entities permitted to acquire partitioned 900 MHz SMR licenses.² AMTA requests that the partitioning rules be relaxed to allow any entity that meets the eligibility requirements for the 900 MHz SMR service to be eligible to acquire an authorization for a partitioned geographic service area.³ In accordance with AMTA's proposal, all MTA licensees would be permitted to partition their licenses along established geopolitical boundaries any time after receiving an authorization, without a holding period.

AMTA also asks that 900 MHz SMR MTA licensees be permitted to disaggregate any portion of their licensed spectrum any time after receiving an authorization. Again, no holding period would be required and any party able to satisfy the 900 MHz SMR eligibility requirements would be allowed to acquire a

² See 47 C.F.R. § 90.813(a).

³ *AMTA Petition*, at 4.

license for disaggregated spectrum.⁴ The Commission's existing rules do not provide for sublicensing of 900 MHz SMR MTA licenses.

II. Expansion of the Geographic Partitioning and Disaggregation Provisions Applicable To 900 MHz SMR MTA Licensees Will Serve the Public Interest.

AMTA's proposals are consistent with the partitioning and disaggregation rules proposed by the Commission for 800 MHz SMR Economic Area ("EA") licensees and the Commission's recent proposals to liberalize the partitioning and disaggregation requirements applicable to broadband PCS licensees.⁵ Significantly, the policy goals driving the Commission's proposals in the 800 MHz SMR and broadband PCS contexts -- namely, removal of market entry barriers and promotion of efficient and effective use of spectrum -- are equally applicable to the 900 MHz SMR service. Motorola supported the adoption of flexible geographic partitioning and spectrum disaggregation policies in the 800 MHz SMR and broadband PCS proceedings and, for similar reasons, urges the Commission to adopt the rule changes suggested by AMTA.⁶

⁴ *Id.* at 5.

⁵ See Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees, WT Docket No. 96-148 (July 15, 1996) [hereinafter *Partitioning and Disaggregation NPRM*]; Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, 11 FCC Rcd 1463, 1578-1580 (1995) [hereinafter *800 MHz SMR Second Further Notice*].

⁶ See Comments of Motorola, Inc., WT Docket No. 96-148 (filed Aug. 15, 1996); Reply of Motorola, Inc., PR Docket No. 93-144, at 9-10 (filed March 1, 1995).

In proposing to allow all incumbents and eligible 800 MHz SMR licensees -- as opposed to only rural telephone companies -- to acquire partitioned spectrum, the Commission tentatively concluded that "extending the partitioning option will further the goal of Section 309(j) in the dissemination of licenses to a variety of licensees because small businesses will have additional flexibility and opportunities to serve areas in which they already provide service, while the remainder of the service area could be served by other providers."⁷ Similarly, the Commission tentatively found that 800 MHz SMR EA licensees should be permitted to disaggregate their spectrum as a means for allowing licensees to "manage their spectrum blocks more effectively and efficiently."⁸ Relatedly, the Commission noted that disaggregation would facilitate the coexistence of EA and incumbent licensees and would result in the most efficient use of 800 MHz SMR spectrum.⁹

The Commission's proposals to expand the partitioning and disaggregation rules applicable to broadband PCS licensees were guided by similar findings. In particular, the Commission stated that expansion of the geographic partitioning provisions to allow all eligible licensees -- as opposed to only rural telephone companies -- to receive a partitioned license and the adoption of rule changes allowing spectrum disaggregation in the near term "will facilitate the efficient use of broadband PCS spectrum by

⁷ 800 MHz SMR Second Further Notice, 11 FCC Rcd at 1580.

⁸ *Id.* at 1579.

⁹ *Id.*

providing licensees additional flexibility to tailor their business strategies, will increase competition by allowing market entry by new players, and will expedite the provision of broadband PCS services to areas that may not otherwise receive broadband PCS or other wireless services in the near term."¹⁰ In addition, the Commission noted that adoption of its proposals would implement Congress's mandate under Section 257 of the Communications Act, which directs the FCC to identify and eliminate market entry barriers that may prohibit entrepreneurs and small businesses from participating in the provision and ownership of telecommunications services.¹¹ Finally, as in the 800 MHz SMR context, the Commission underscored that its proposals would further the directives of Section 309(j) of the Communications Act by increasing the opportunities for participation of a wide variety of applicants including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.¹²

Adoption of AMTA's proposal to expand the geographic partitioning and spectrum disaggregation rules in the 900 MHz SMR context will achieve these same desirable effects and will advance the Commission's longstanding effort to spur the development of 900 MHz SMR operations. First, AMTA's suggestions for liberalization of the geographic partitioning rule will serve the public interest by

¹⁰ *Partitioning and Disaggregation NPRM*, ¶ 1.

¹¹ *Id.*

¹² *Id.*, ¶ 12.

affording licensees the flexibility to use available spectrum in the most effective and efficient manner. In addition, expansion of the geographic partitioning provisions will make it easier for small businesses to enter the CMRS marketplace and to offer services to distinct geographic regions. This, in turn, will promote competition and diversity in the 900 MHz SMR service and the broader CMRS marketplace, to the ultimate benefit of consumers.

Similarly, allowing 900 MHz SMR MTA licensees to disaggregate their spectrum blocks will encourage efficient use of available spectrum by permitting licensees to divest themselves of excess capacity that can be put to more effective use by other entities. Disaggregation will also promote effective spectrum usage by allowing existing licensees to acquire additional increments of spectrum that their technology or customers may require.

Finally, Motorola generally concurs with the additional suggestions advanced by AMTA relating to the implementation of partitioning and disaggregation rules to be applied to 900 MHz SMR operations. In particular, Motorola agrees that MTA licensees should not be required to retain any set percentage of their license area after partitioning.¹³ Motorola also agrees that, consistent with the Commission's existing construction requirements for rural telephone companies and the proposals for 800 MHz SMR partitioning, entities that acquire a partitioned area should be solely

¹³ See *AMTA Petition*, at 4.

responsible for meeting the construction requirements applicable to their licensed area.¹⁴

Motorola further agrees with AMTA's suggestion that the Commission should not designate a minimum amount of spectrum that MTA licensees may disaggregate.¹⁵ As discussed in detail in Motorola's comments in WT Docket No. 96-148, to allow optimum use of the spectrum and the broadest array of technologies by licensees, disaggregation rules must be sufficiently flexible to permit deployment of *any* technology for *any* intended use.¹⁶ Likewise, Motorola concurs with AMTA's suggestion that 900 MHz SMR licensees be allowed to combine the partitioning and disaggregation provisions as needed to enter or increase their presence in a market or to expand or enhance service offerings.¹⁷ This recommendation is consistent with the Commission's proposal in the broadband PCS context and, as recognized there, will serve to enhance competition, promote spectrum efficiency, and help ensure the provision of quality service to the public.¹⁸

¹⁴ *Id.* Similarly, entities that acquire disaggregated spectrum should be solely responsible for meeting the applicable construction requirements.

¹⁵ *Id.* at 5.

¹⁶ Comments of Motorola, Inc., WT Docket No. 96-148, at 3 (filed Aug. 15, 1996).

¹⁷ *See AMTA Petition*, at 10.

¹⁸ *See Partitioning and Disaggregation NPRM*, ¶¶ 58-59.

III. Conclusion

For the foregoing reasons, Motorola urges the Commission to modify its rules to expand the geographic partitioning and spectrum disaggregation rules applicable to the 900 MHz SMR service. The Commission has tentatively concluded in both the 800 MHz SMR and broadband PCS contexts that liberalization of partitioning and disaggregation rules will serve the public interest by promoting competition, lifting market entry barriers, and helping to achieve more efficient and effective use of spectrum. These benefits are equally applicable in the 900 MHz SMR context. Accordingly, the rule changes proposed by AMTA, which essentially track the Commission's proposals at 800 MHz and in the broadband PCS context, should be adopted without delay.

Respectfully submitted,

Motorola, Inc.

By: Mary Brooner
Mary E. Brooner
Manager, Wireless Regulatory Policies
Motorola, Inc.
1350 I Street, N.W., Suite 400
Washington, D.C. 20005
(202) 371-6900

Dated: October 21, 1996

CERTIFICATE OF SERVICE

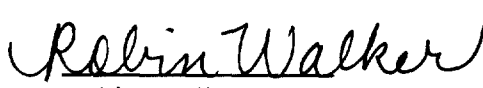
I, Robin Walker, hereby certify that on this 21st day of October, 1996, I caused true copies of the foregoing to be delivered to the following persons via hand delivery:

Elizabeth R. Sachs
Lukas, McGowan, Nace & Gutierrez, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036

Alan R. Shark
American Mobile Telecommunications Ass'n, Inc.
1150 18th Street, N.W., Suite 250
Washington, D.C. 20036

Mika Savir
Federal Communications Commission
Wireless Telecommunications Bureau
Commercial Wireless Division
Legal Branch
2025 M Street, N.W.
Room 7130
Washington, D.C. 20554

International Transcription Service, Inc.
2100 M Street, N.W., Suite 140
Washington, D.C. 20037


Robin Walker